

**PATENT****REMARKS**

This is in response to the Office Action mailed on October 7, 2005. In the Office Action, claims 1-14 were rejected under a) 35 U.S.C. § 103(a) as being unpatentable over by U.S. Patent No. 5,889,844 to Kim in view of U.S. Patent No. 6078,570 to Czaja and b) judicially created doctrine of obviousness-type double patenting over cited claims of U.S. Patent No. 6,198,929 to Krishnamurthi et al. Reconsideration of this case is respectfully requested in view of the amendments made herein and the following remarks.

Claims 1-14 have been cancelled by this response. New claims 15-32 have been added. Accordingly, claims 15-32 remain at issue in the patent application. Of those at issue, claims 15 and 28 are independent claims.

Applicant believes that no new matter has been added by this response.

**I) CLAIM REJECTIONS UNDER 35 U.S.C. § 103(a)**

In the Office Action, claims 1-14 were rejected under 35 U.S.C. §103(a) as being unpatentable over by Kim in view of Czaja (Office Action page 2). Applicant respectfully submits that the foregoing 35 U.S.C. § 103(a) is now moot in view of the cancellation of claims 1-14. Applicant respectfully requests that the §103(a) rejection of claims 1-14 to be withdrawn.

**II) DOUBLE PATENTING**

Claims 1-14 were rejected under 35 U.S.C. §101 under judicially created doctrine of obviousness-type double patenting over cited claims of Krishnamurthi et al.

Applicant respectfully requests that the Examiner withdraw the obviousness-type double patenting rejection of claims 1-14 for at least the reason that the claims 1-14 have been cancelled.

**III) NEW CLAIMS**

Applicant has added new claims 15-32 that are fully supported by the specification and add no new matter.

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Applicant respectfully submits that the new claims 15-32 are not anticipated by Kim or rendered obvious by Kim in view of Czaja.

The claimed invention is directed to a mobile switching center which engages in a service negotiation with a wireless subscriber unit which uses a traffic channel to communication with a first source and a second source, such as a user of cell-phone in voice communication with a user of a first device, while receiving text messages from a user of a second device. In order to enable such communication without dropping the text messages or declaring the wireless subscriber unit as unavailable to the user of the second device, the MSC allocates data transmission rates on the traffic channel to each of the first and second devices based on the service negotiation conducted with the wireless subscriber unit. The service negotiations are conducted when the second device requests communication with the wireless subscriber unit. Based on the allocated data transmission rates, the MSC then enables concurrent communication between the wireless subscriber unit and the first and second devices using the traffic channel.

In an exemplary embodiment, the MSC determines a primary service option and a secondary service option corresponding to the first and second devices for communicating with the wireless subscriber via the traffic channel using data frames. The MSC comprises a multiplexer to define the number of bits of each data frame to be allocated for the primary and secondary service options.

In this way, both the text messages and voice communication are received in the wireless subscriber unit, and without any input or approval by the user of the wireless subscriber unit.

Kim is directed to a telephone switch system for performing a conferencing function. The invention in Kim provides a call waiting service for conferencing communications wherein if a new call from a third party is received during the course of the communication, a first subscriber equipped with both conference call function and call waiting functions can: 1) allow the existing conferencing call subscribers' to be waited, and processes the call with the third party (i.e. the conferencing subscribers are put on hold, while the first subscriber communicates with the third party); 2) allow the third party to join in the conferencing call; or 3) deleting or adding existing conferencing subscribers or third parties (See for example, Summary of Kim).

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The invention in Kim is therefore directed to conferencing calls which requires for a subscriber to be equipped with *both conference call function and call waiting functions*. (Emphasis added). The invention in Kim also requires input from the user (i.e. the first subscriber) which must review the information provided on the call-waiting functions before deciding which of the above scenarios to pursue. Thus, unlike the claimed invention in which the MSC engages in service negotiation with a *wireless subscriber unit*, the invention in Kim requires engagement in a conference call correspondence with *the user* of the wireless unit before processing the above scenarios. In addition, the invention in Kim is silent as to the receipt of text messages while a voice communication is in progress, or as to allocating data transmission rates on the traffic channel to each of the first and second devices based on the service negotiation conducted with the wireless subscriber unit so to enable concurrent communication between the wireless subscriber unit and the first and second devices.

Czaja is likewise silent as to the foregoing features of the claimed invention. Thus, the disclosures in Kim and Czaja, when taken alone or in combination, fail to anticipate or render obvious the foregoing features of the claimed invention as claimed in claims 18-32. Accordingly, the Applicant respectfully submits that foregoing features of the claimed invention are patentably distinct over the disclosures in Kim and Czaja.

Applicant respectfully requests the allowance of new claims 15-32.

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REQUEST FOR ALLOWANCE

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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